

REMARKS

Reconsideration and allowance of this application are respectfully requested in light of the following remarks.

Claims 1-27 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Cartonis et al. (U.S. Patent No. 6,584,501 B1) (hereinafter "Cartonis") in view of Ludwig et al. (U.S. Patent No. 6,351,762 B1)(hereinafter "Ludwig"). It is respectfully submitted that the rejection of claims 1-27 should be withdrawn.

In the rejection of claim 1, the Office Action concedes that neither Cartonis nor Ludwig teach or suggest the feature of: "the information displayed by the display unit includes the type of operating system employed by the client, the type of operating system employed by the server, an account name of a user accessing the client, and an icon representing the account name," as recited by claim 1. The Office Action then takes Official Notice that it was well known at the time of the invention to display the above recited limitations.

According to MPEP 2144.03:

"Official notice without documentary evidence to support an examiner's conclusion is permissible only in some circumstances. While 'official notice' may be relied on, these circumstances should be rare when an application is under final rejection or action under 37 CFR 1.113. Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well known, or to be common knowledge in the art, are capable of instant and unquestionable demonstration as being well-known."

For example, it would be appropriate for an Examiner to take Official Notice that "it is old to adjust intensity of a flame in accordance with the heat requirement." MPEP 2144.03. In contrast, it is "...not appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well known." Id. For example, "assertions of technical

facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art.” Id.

Here, the Office Action takes Official Notice that it was well known at the time of the invention to display four different types of data, including “the type of operating system employed by the client, the type of operating system employed by the server, an account name of a user accessing the client, and an icon representing the account name,” using a display unit of a network monitoring system that monitors communication between a client and server. This recited feature of claim 1 is a technical feature, unlike the limitation of “adjusting a flame in accordance with the heat requirement.” Therefore, the Office Action is taking Official Notice with respect to a technical fact. However, the Office Action fails to cite any references in support of the argument that it was well known at the time of the invention for network monitoring systems to display all four of these types of data. As a result, it is improper to take Official Notice of this technical fact without citing to any references because MPEP 2144.03 states that “assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art.” Therefore, it is respectfully submitted that the Office Action’s Official Notice is improper, and the rejection of claim 1 should be withdrawn for at least this reason.

Furthermore, it is respectfully submitted that Ludwig does not teach or suggest the claimed feature of “in response to a request by a user, the display-information generation section regenerates, for continuous play back, information of a sequence of individual actions that occurred on the network and cooperates with the display unit to display, during each play back, the regenerated information of each individual action of the sequence at the same time interval

within the sequence as the action occurred,” as recited by claim 1. In the Office Action at page 4, the Office argues that Ludwig teaches this claimed feature at col. 28, lines 48-65. However, col. 28, lines 48-65 state the following:

“Examples of time-sensitive media that can be stored on conventional file systems are small audio files and short or low-quality video clips (e.g., as might be produced using QuickTime or Video for Windows). Other examples include window event lists as supported by the Window-Event Record and Play system 512 shown in FIG. 30. This component allows for storing and replaying a user’s interactions with application programs by capturing the requests and events exchanged between the client program and the window system in a time-stamped sequence. After this “record” phase, the resulting information is stored in a conventional file that can later be retrieved and “played” back. During playback the same sequence of window system requests and events reoccurs with the same relative timing as when they were recorded. In prior-art systems, this capability has been used for creating automated demonstrations. In the present invention it can be used, for example, to reproduce annotated snapshots as they occurred at recording (emphasis added).”

Reproducing annotated snapshots is not the same as continuously playing back information of a sequence of individual actions, as recited by claim 1. Instead, reproducing annotated snapshots is a discretely-reproducing process, i.e., a process for reproducing by thinning out intermediate images, that does not involve the continuous playback of any information. For example, displaying a Powerpoint presentation of 30 annotated screen shots extracted from a 2-hour movie is not the same as continuously playing back the 2-hour movie itself. Nothing in Ludwig teaches or suggest anything about continuous reproduction of data, and in fact, Ludwig discloses using “Snapshot Share 514” (FIG. 30) for “capturing window or screen snapshots.” Col. 28, line 67-col. 9, line 6. Capturing window or screen snapshots, like reproducing annotated snapshots, does not teach or suggest the operation of continuously playing back information of a sequence of individual actions as recited by claim 1. “All words in a claim must be considered in judging the patentability of that claim against the prior art.” MPEP

2143.03. Since Ludwig fails to teach or suggest this recited feature of claim 1, and since none of the other references cure this deficiency of Ludwig, it is respectfully submitted that the rejection of claim 1 should be withdrawn for at least this reason as well.

Claims 2-8 and 25 depend on claim 1. Accordingly, it is respectfully submitted that the rejections of claims 2-8 and 25 should be withdrawn for at least the same reasons that the rejection of claim 1 should be withdrawn.

Claim 9 recites the operation of “regenerating for continuous play back, in response to a request by a user, information of a sequence of individual actions that occurred on the network.” As explained above with respect to claim 1, Ludwig fails to teach or suggest this recited feature, because the reproduction of annotated snapshots does not teach or suggest continuous playback as recited by claim 9. Furthermore, none of the other references cure this deficiency of Ludwig. Additionally, as explained above with respect to claim 1, the Office Action has improperly taken Official Notice that it was well known at the time of the invention for network monitoring systems to display the four types of displayed data recited by claim 9. Accordingly, it is respectfully submitted that the rejection of claim 9 should be withdrawn for substantially the same reasons that the rejection of claim 1 should be withdrawn.

Claims 10-16 and 26 depend on claim 9. Accordingly, it is respectfully submitted that the rejection of claims 10-16 and 26 should be withdrawn for at least the same reasons that the rejection of claim 9 should be withdrawn.

Claim 17 recites the feature of: “regenerating for continuous play back, in response to a request by a user, information of a sequence of individual actions that occurred on the network.” As explained above with respect to claim 1, Ludwig fails to teach or suggest this recited feature, because the reproduction of annotated snapshots does not teach or suggest continuous playback

as recited by claim 17. Furthermore, none of the other references cure this deficiency of Ludwig. Additionally, as explained above with respect to claim 1, the Office Action has improperly taken Official Notice that it was well known at the time of the invention for network monitoring systems to display all four types of displayed data recited by claim 17. Accordingly, it is respectfully submitted that the rejection of claim 17 should be withdrawn for substantially the same reasons that the rejection of claim 1 should be withdrawn.

Claims 18-24 and 27 depend on claim 17. Accordingly, it is respectfully submitted that the rejection of claims 18-24 and 27 should be withdrawn for at least the same reasons that the rejection of claim 17 should be withdrawn.

In view of the above, it is submitted that this application is in condition for allowance and a notice to that effect is respectfully solicited.

If any issues remain which may best be resolved through a telephone communication, the Examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,

/James Edward Ledbetter/

Date: February 26, 2009
JEL/DEA/att

James E. Ledbetter
Registration No. 28,732

Attorney Docket No. 008612-03103
Dickinson Wright PLLC
1875 Eye Street, NW, Suite 1200
Washington, DC 20006
Telephone: (202) 659-6960
Facsimile: (202) 659-1559